

REMARKS

As described in 37 C.F.R. §1.78(a)(3), a Petition to Accept An Unintentionally Delayed Claim for Priority Under 35 § U.S.C. 120 is properly filed herewith. The priority claims are included in the Amendments to the Specification, above.

Claims 1-43 were pending in the present application. Claims 24-43 were withdrawn from consideration and are now cancelled. Claims 44-66 are added.

Accordingly, claims 1-23 and 44-66 are currently under consideration.

Support for claim 44 may be found in the specification as filed. For example see paragraph 0041, which states fluidly connecting the lung with an extrapleural airway such as the trachea. Clearly, the illustration shown in Fig. 2A shows the lung directly coupled to a portion of the trachea that is outside the pleural cavity. Support for claims 45-66 may be found in the specification and the original claims as filed.

Rejections under 35 USC § 112

Claims 1-23 are rejected under 35 USC § 112 as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In response, Applicant respectfully submits that connecting the lung with an extrapleural airway such that air may pass directly from the lung to the extrapleural airway is not a situation that occurs in nature. Instead, the connection between the lungs and extrapleural airway requires that fluid pass through the intermediate airways to the extrapleural airway.

Applicant further notes that claim 44 recites fluidly connecting the lung with a portion of an airway that is outside the pleural cavity, such that air may pass directly from the lung to the airway. Again, such an occurrence is not found in nature.

Furthermore, Applicant respectfully submits that “intrapleural airway” and “extrapleural airway” are not ambiguous and are known to those having ordinary skill in the art. Applicant even explicitly stated the definition of “extrapleural airway” in Applicant’s Response To Non-Final Office Action filed 5 April 2006. Applicant submits that Google searches are not the typical source for medical terminology, but in response to the

Examiner's own Google search, a Google search for "extrapleural" returned 96,100 results and a Google search for "airway" returned 12,100,000 results. One having ordinary skill in the art would know the definition of "extrapleural airway", but can also easily combine the definitions of "extrapleural" and "airway" to produce the unambiguous definition of "extrapleural airway".

Aside from the above, Applicant provides copies from <http://www.onelook.com>, listed as Exhibit A, showing that a definition of "extrapleural" may be found in Dorland's Illustrated Medical Dictionary online. Applicant also provides a printout of the Dorland site (<https://www.mercksource.com>), which provides a definition for "extrapleural". Clearly, a definition from Dorland's Medical Dictionary is more appropriate for medical terminology than the search results discussed above. As shown in Exhibit A, "extrapleural" means outside the pleural cavity. Thus, an "extrapleural airway" is an airway that is outside the pleural cavity.

In view of the above, Applicant requests withdrawal of this rejection.

Rejections under 35 USC § 103(a) - I

Claims 1-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cooper et al. (6,692,494).

The present application seeks priority to Cooper et al. Accordingly, Applicant submits that Cooper et al. can not render the present Application unpatentable under 35 U.S.C. § 103(a).

Rejections under 35 USC § 103(a) - II

Claims 1-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Keast et al. (6,749,606).

The earliest priority date of the present application is concurrent with the earliest priority date of Keast et al. Accordingly, Applicant submits that Keast et al. can not render the present Application unpatentable under 35 U.S.C. § 103(a).

Rejections under 35 USC § 103(a) - III

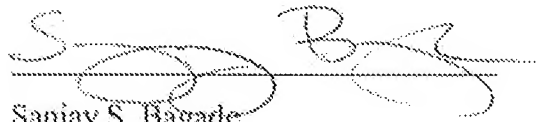
Claims 1-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Laufer et al. (6,629,951).

The earliest priority date of the present application is concurrent with the earliest priority date of Laufer et al. Accordingly, Applicant submits that Laufer et al. can not render the present Application unpatentable under 35 U.S.C. § 103(a).

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,

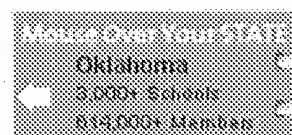
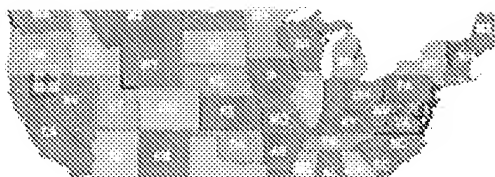
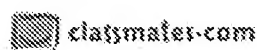
A handwritten signature in dark ink, appearing to read 'S. Bagade', is written over a horizontal line.

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Exhibit A – 2 pages

Exhibit A

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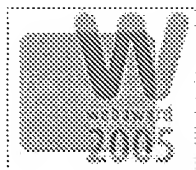
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extralymphatic (ex-tra-lym-phat-ic) (ek'strə-lim-fat'ik) situated or occurring outside the lymphatic system.

extramalleolus (ex-tra-mal-le-o-lus) (eks'trə-mə-le'o-ləs) the outer malleolus of the ankle joint.

extramastoiditis (ex-tra-mas-toi-di-tis) (eks'trə-mas'toi-di'tis) inflammation of the outer surface of the mastoid process and nearby tissues.

extramedullary (ex-tra-med-ul-la-ry) (eks'trə-med'u-lar'e) situated or occurring outside any medulla, especially the medulla oblongata.

extrameningeal (ex-tra-me-nin-ge-al) (eks'trə-mə-nin'jəl) occurring outside the meninges.

extramural (ex-tra-mu-ral) (eks'trə-mu'ral) [*extra-* + *mural*] situated or occurring outside the wall of an organ or structure.

extraneous (ex-tra-ne-ous) (ek-s'tra-ne-əs) [L. *extraneus* external] existing or belonging outside the organism.

extranuclear (ex-tra-nu-cle-ar) (eks'trə-noo'kle-ar) situated or occurring outside a cell nucleus.

extraocular (ex-tra-oc-u-lar) (eks'trə-ok'u-lər) situated outside the eye.

extraosseous (ex-tra-os-se-ous) (eks'trə-os'e-əs) occurring outside a bone or bones.

extrapancreatic (ex-tra-pan-cre-at-ic) (ek'strə-pan'kre-at'ik) outside the pancreas.

extraparenchymal (ex-tra-pa-ren-chy-mal) (eks'trə-pə-ren'kə-məl) occurring or formed outside the parenchyma.

extrapelvic (ex-tra-pel-vic) (eks'trə-pel'vik) unconnected with the pelvis.

extrapericardial (ex-tra-peri-car-di-al) (eks'trə-per'i-kahr'dē-əl) outside the pericardium.

extraperineal (ex-tra-per-i-ne-al) (eks'trə-per'i-ne'el) away from, or not connected with, the perineum.

extraperiosteal (ex-tra-peri-os-te-al) (eks'trə-per'e-os'te-al) outside or independent of the periosteum.

extraperitoneal (ex-tra-peri-to-ne-al) (eks'trə-per'i-to-ne'el) situated or occurring outside the peritoneal cavity.

extraplacental (ex-tra-pla-cen-tal) (eks'trə-plə-sen'tel) outside of or independent of the placenta.

extraplantar (ex-tra-plan-tar) (eks'trə-plan'tar) on the outside of the sole of the foot.

extrapleural (ex-tra-plau-ral) (eks'trə-ploor'el) outside the pleural cavity.